

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:

NORTHWEST ALLOYS, INC
and CHINOOK VENTURES, LLC

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AGREED ORDER

No. DE 4263

TO: Mr. Mark A. Stiffler
Northwest Alloys, Inc.
201 Isabella St.
Pittsburgh, PA 15212-5858

Mr. Barry Oliver
Chinook Ventures, LLC.
P.O. Box 293
4029 Industrial Way
Longview, WA 98632

I.

Jurisdiction

This Agreed Order ("Order") is issued pursuant to the authority of RCW
70.105D.050(1).

II.

Findings of Fact

Ecology makes the following Findings of Fact, without admission of such facts by
Northwest Alloys, Inc. (Northwest Alloys) and Chinook Ventures, LLC (Chinook).

1. Reynolds Metals Company (Reynolds) owned and operated an aluminum
smelter west of Longview, Washington until 2001. Reynolds produced aluminum and
aluminum based products at the facility for nearly 60 years. The facility covers

approximately 416 acres with approximately 100 acres of developed land. The developed land consists of: two aluminum producing plants (known generally as the North Plant and South Plant), a carbon plant and carbon transfer area, a cable mill, a demolished cryolite plant, waste water treatment plant and casting facility. The South Plant began aluminum smelting and casting operations in 1941. The larger North Plant began aluminum smelting and casting operations in 1967. The facility is located adjacent to the Columbia River in Cowlitz County, Washington State. The Site that is subject to this Order consists of the aerial extent of soil and groundwater contamination in and around the facility, and is shown on Attachment A to this Order.

2. In or around May of 2000, Reynolds was purchased by Alcoa Inc.

3. In or around January of 2001, most of the fixed assets and improvements at the Site including aluminum making equipment and buildings were sold to Longview Aluminum, LLC. Reynolds retained ownership of the real estate, including the real estate beneath the aluminum making equipment and buildings.

4. Operations at the Site were curtailed in or around January 2001.

5. In or around March of 2003, Longview Aluminum, LLC declared bankruptcy.

6. In or around December of 2004, Chinook purchased all of the assets that were owned by Longview Aluminum including the buildings and aluminum producing facilities during bankruptcy proceedings.

7. In September 2005, the assets retained by Reynolds at the Site, including the real estate, were transferred to Northwest Alloys.

8. Chinook and Northwest Alloys are proposing to develop the Site into a port and processing facility for bulk materials, automobiles and other items.

9. Studies done at the Site in 2002 and 2003 show contamination is located at two closed industrial landfills, three closed waste ponds, one closed potliner storage area and a closed RCRA waste pile. Ground water found beneath portions of the Site has elevated levels of sulfate, fluoride and cyanide.

10. Initial studies of soil and ground water at the Site find levels of free cyanide above Model Toxics Control Act (MTCA) cleanup standards. Levels of fluoride are above MTCA ground water standards.

III.

Ecology Determinations

Ecology makes the following Determinations, without admission of such determinations by Northwest Alloys and Chinook.

1. The Site, which has an address of 4029 Industrial Way, Longview, Washington, is known as the Chinook Ventures Longview Facility. The Site is a “facility” as defined in RCW 70.105D.020(4), and is shown in Attachment A to this Order.

2. Northwest Alloys is an "owner or operator" as defined at RCW 70.105D.020(11) of the Site. Chinook is an “owner or operator” as defined at RCW 70.105D.020(11) of the Site.

3. Fluoride, cyanide, and polynuclear aromatic hydrocarbons (PAHs), found at the Site as described above are "hazardous substances" as defined at RCW 70.105D.020(7).

4. Based on the presence of these hazardous substances at the Site and all factors known to the Department, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(19).

5. By letters dated October 24, 2006 and November 13, 2006, Ecology notified Northwest Alloys and Chinook of their status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, the Department may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.

7. Based on the foregoing determinations, Ecology believes the remedial action required by this Order is in the public interest.

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that Northwest Alloys and Chinook take the following remedial actions to complete an RI/FS and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

1. Within 30 days of the effective date of this Order, Northwest Alloys and Chinook shall submit a Sampling Plan to Ecology that initiates further soil and water investigations at the Site to complete the characterization of the location, quantity, aerial and vertical extent of the contaminants of concern present on the Site. The sampling plan shall include development of a set of contaminants of concern for the Site. The sampling plan shall include further data collection to establish Site boundary groundwater conditions, critical values which will be needed to develop a Site wide ground water model, cyanide and fluoride concentrations during low rainfall, low river conditions needed to test model conditions, and selected soil and ground water priority pollutant samples in and adjacent to the old landfill and floor sweeps landfill to determine additional contaminants of concern. Site boundary groundwater conditions on the southeast corner of the Site shall be investigated with the placement of additional monitoring wells.
2. Within 30 days of the effective date of this Order, Northwest Alloys and Chinook shall assemble and review an air-photo collection of the northern portion of the Site. This review shall be used to determine the waste disposal history of the Site and to determine if any past waste burial practices have been over looked in the initial due diligence sampling that was completed in 2002 and 2003. The results of this review shall be reported to Ecology and included in the Remedial Investigation Report.

3. If deemed necessary by Ecology, Northwest Alloys and Chinook shall submit a proposal to develop a set of Site specific surface water cleanup standards for fluoride. The proposal shall be submitted within 45 days of Ecology's determination.
4. Within 120 days of Ecology's approval of the Sampling Plan, Northwest Alloys and Chinook shall submit a Remedial Investigation Report.
5. Within 120 days of the Ecology's approval of the Remedial Investigation Report, Northwest Alloys and Chinook shall submit for approval a Feasibility Study (FS) for cleanup of the Site. The FS shall include an analysis of the alternative cleanup actions that are protective of human health and the environment in accordance with the requirements of WAC 173-340-350 and WAC 173-340-360. The analysis shall include an initial screening of remedial technologies and a detailed evaluation of a focused list of alternative cleanup actions. Alternatives that shall be included but are not all inclusive in the FS are: no remediation and long term monitoring, removal of source areas from the Site and capping, removal of source areas to an on site landfill and capping, limited source area removal, pumping and treating contaminated groundwater, and capping. The cleanup actions described in the FS shall use permanent solutions to the maximum extent possible and each of the different alternatives shall be compared using a disproportionate cost analysis. The FS shall determine if each proposed cleanup action provides for a reasonable restoration time frame under the Model Toxics Control Act.

V.

Terms and Conditions of Order

1. Definitions

Unless otherwise specified, the definitions set forth in chapter 70.105D RCW and chapter 173-340 WAC shall control the meanings of the terms used in this Agreed Order.

2. Public Notices.

WAC 173-340-600(10)(c) requires a 30 day public comment period before this Agreed Order becomes effective. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

3. Remedial Action Costs. Chinook shall pay to Ecology costs incurred by Ecology pursuant to this Agreed Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Chinook Ventures shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

4. Designated Project Coordinators. The project coordinator for Ecology is:

Name: Paul Skyllingstad

Address: Industrial Section
Department of Ecology
P.O. Box 47706
Olympia, WA 98504-7706

The project coordinator for Chinook is:

Name: Mr. Barry Oliver

Address: Chinook Ventures, LLC.
P.O. Box 293
4029 Industrial Way
Longview, WA 98632

The project coordinator for Northwest Alloys is:

Name: Mr. Mark Stiffler

Address: c/o Alcoa Inc.
201 Isabella St.
Pittsburgh, PA 15212-5858

The project coordinator(s) shall be responsible for overseeing the implementation of this Agreed Order. To the maximum extent possible, communications between Ecology, Chinook, and Northwest Alloys, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or Chinook or Northwest Alloys change project coordinator(s), written notification shall be provided to the other parties at least ten (10) calendar days prior to the change.

5. Performance. All work performed pursuant to this Agreed Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous waste site investigation and cleanup. Chinook and/or Northwest Alloys shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site. Chinook and/or Northwest Alloys shall provide a copy of this Agreed Order to all agents, contractors and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Order.

Except where necessary to abate an emergency situation, Chinook or Northwest Alloys shall not perform any remedial actions at the Site outside that required by this Agreed Order unless Ecology concurs, in writing, with such additional remedial actions.

6. Access. Subject to all health and safety protocol and precautions established for the Site and the work to be performed there, Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Agreed Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Chinook and/or

Northwest Alloys. By signing this Agreed Order, Chinook and Northwest Alloys agree that this Order constitutes reasonable notice of access, and agrees to allow access to the Site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by Chinook and/or Northwest Alloys during an inspection unless doing so materially interferes with Ecology's sampling, and Ecology shall provide twenty-four (24) hours notice before any sampling activity. Chinook and Northwest Alloys shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any sampling activity.

7. Public Participation Ecology and Chinook and Northwest Alloys shall prepare and/or update a public participation plan for the Site. Ecology shall maintain the responsibility for public participation at the Site. Chinook and/or Northwest Alloys shall help coordinate and implement public participation for the Site.

8. Retention of Records. Chinook and Northwest Alloys shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all reports, deliverables, records, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Chinook or Northwest Alloys, then Chinook and Northwest Alloys agree to ensure such contractors or agents comply with a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution. Chinook or Northwest Alloys may request Ecology to resolve disputes between them which may arise during the implementation of this Agreed

Order. Such request shall be in writing by either party and directed to Ecology's signatory to this Order, or his/her successor(s). Ecology's resolution of the dispute shall be binding and final. Chinook and Northwest Alloys are not relieved of any requirement of this Order during the pendency of the dispute and they remain responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

10. Reservation of Rights/No Settlement. This Agreed Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against Chinook or Northwest Alloys to recover remedial action costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against Chinook or Northwest Alloys to require those remedial actions required by this Agreed Order, provided Chinook and Northwest Alloys comply with this Agreed Order.

Ecology reserves the right, however, to require additional remedial actions at the Site should it deem such actions necessary.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the Site.

In the event Ecology determines that conditions at the Site are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order Chinook or Northwest Alloys

to stop further implementation of this Order for such period of time as needed to abate the danger.

Except as otherwise provided herein, neither Chinook nor Northwest Alloys waives any rights or defenses either may have to subsequent Ecology actions or directives related to the Site. In particular, but without limiting the foregoing, Chinook and Northwest Alloys specifically reserve their right to challenge any Ecology determination that either has failed, without sufficient cause, to comply with this Order.

11. Transference of Property No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Chinook or Northwest Alloys without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest Chinook or Northwest Alloys may have in the Site or any portions thereof, Chinook or Northwest Alloys shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, Chinook and/or Northwest Alloys shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws.

A. All actions carried out by Chinook or Northwest Alloys pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in paragraph B of this section.

B. Pursuant to RCW 70.105D.090(l), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order that are known to be applicable at the time of issuance of the Order have been included in Attachment B. Chinook and Northwest Alloys have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(l) would otherwise be required for the remedial action under this Order. In the event Chinook or Northwest Alloys determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology, Chinook or Northwest Alloys shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Chinook or Northwest Alloys shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Chinook and/or Northwest Alloys and on how Chinook and/or Northwest Alloys must meet those requirements. Ecology shall inform Chinook and Northwest Alloys in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Chinook or Northwest Alloys shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

C. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the State to administer any federal law, the exemption shall not apply and Chinook and Northwest Alloys shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon Chinook's and Northwest Alloys' receipt of written notification from Ecology that Chinook and/or Northwest Alloys has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Agreed Order have been complied with.

VII.

Enforcement

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
 - A. The Attorney General may bring an action to enforce this Order in a state or federal court.

- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. In the event Chinook or Northwest Alloys refuses, without sufficient cause, to comply with any term of this Order, Chinook or Northwest Alloys will be liable in an action brought by the Attorney General for:
- (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
 - (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.
- D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under Chapter 70.105D.060 RCW.

Effective date of this Order: _____

NORTHWEST ALLOYS, INC.

CHINOOK VENTURES, LLC.

By: _____

By: _____

Mr. Robert Bear
President

Mr. Barry Oliver
President

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By: _____

Ms. Carol Kraege, P.E.
Industrial Section Manager
Solid Waste and Financial Assistance
Program